

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
MICHIGAN TAX TRIBUNAL

TRIBUNAL NOTICE 2005-7
Motion Practice: Oral Argument.
Issued: June 30, 2005

2005-7 MOTION PRACTICE – ORAL ARGUMENT; COURT REPORTERS. The 2nd and 4th Monday of every month are set aside for oral argument on motions. If a Monday set aside for the taking of oral argument falls on a holiday, the next business day will be used.

A party may request oral argument in a motion or a response to a motion. The party requesting oral argument ***must*** pay the “sitting fee” indicated herein at the time the request is filed with the Tribunal. The “sitting fee” is in addition to and not a substitute for the fee required for the filing of the motion. Failure to pay the “sitting fee” will result in no action being taken on the request, though the Tribunal may independently issue a default order.

As a general matter, a request for oral argument on a routine procedural motion (i.e., motion to amend, motion to extend time, motion for substitution, motion to hold a case in abeyance) will not be granted.

Oral argument will be required on all motions to compel and motions to place a party in default. The party filing the motion must pay the fee for the filing of the motion and the “sitting fee” at the time the motion is filed with the Tribunal. Failure to pay either the filing fee or “sitting fee” will result in no action being taken on the motion, though the Tribunal may independently issue a default order.

Governing Procedure:

- A request for oral argument must be contained in the caption of the motion or response.
- Oral argument will, unless otherwise ordered by the Tribunal, be limited to 25 minutes - 10 minutes per side and 5 minutes for the presiding Tribunal judge. If the requesting party or parties feel that more than 10 minutes per side is necessary to resolve the issues presented by the motion or response, that party or parties must indicate in the motion or response the proposed amount of time needed and specify why that amount of time is necessary. The extension of time is solely at the discretion of the Tribunal.
- If a request for oral argument is made in a case already assigned to a Tribunal member, that Tribunal member may schedule the oral argument on a day other than the 2nd or 4th Monday of a month.

- A court reporter will be provided by the Tribunal to record the oral argument. Unless the 30 minute time limitation is extended, the non-refundable sitting fee will be \$30. The payment of the sitting fee may be taxed as costs against the non-prevailing party. (*A sample proposed order for the taxation of costs is attached. A fillable proposed order for the taxation of costs will also be provided on the Tribunal's web site.*)
- A transcript of the oral argument will generally not be required. If a transcript is required, the transcript may be requested from the Tribunal at separate per page cost. Costs for the preparation of a required transcript may be taxed as costs against the non-prevailing party.
- The Tribunal may rule on the motion at the conclusion of the oral argument based on the record and sign the order prepared by the prevailing party or to be prepared by that party as directed by the Tribunal. (*The proposed order shall comport with the attached sample order. A fillable order will also be provided on the Tribunal's web site.*)
- A timely request to withdraw a motion requesting or subject to oral argument may be submitted by facsimile. The request must demonstrate that all parties were timely notified of the request to withdraw the motion.

The establishing of "motion days" at the Tribunal is consistent with the practice utilized by the courts of this State and designed to expedite both the processing of motions and the underlying appeals.

This Tribunal Notice will take effect September 30, 2005, unless otherwise modified by the Tribunal on or before that date based on comments received by September 2, 2005.

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